

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KELLY MUSZALL

v.

TRANS UNION LLC et al

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CIVIL ACTION NO. 20-4201

ORDER

This 15th day of July, 2021, it is hereby **ORDERED** that Defendant’s Motion for Judgment on the Pleadings (ECF 18) and Plaintiff’s Cross-Motion for Judgment on the Pleadings (ECF 21) are **DENIED**.

Plaintiff alleges violations of the Fair Credit Reporting Act (FCRA) due to purported inaccuracies in Plaintiff’s credit report. *See* Complaint, ECF 1. For purposes of FCRA, information is “inaccurate” if it is either (1) factually incorrect or (2) even if technically correct “through omission, it creates a materially misleading impression.” *Seamans v. Temple Univ.*, 744 F.3d 853, 865 (3d Cir. 2014) (citations and alterations omitted). “Whether technically accurate information was misleading in such a way and to such an extent that it can be expected to have an adverse effect is generally a question to be submitted to the jury.” *Id.* (citations omitted).

“A court may not dismiss a complaint on the pleadings unless no set of facts could be adduced to support the plaintiff’s claim for relief.” *Bryson v. Brand Insulations, Inc.*, 621 F.2d 556, 559 (3d Cir. 1980). Defendant raises cogent arguments about reasonable interpretations of the credit report and why the information in question may be viewed as accurate, but these arguments are factual and are better decided at summary judgment. *See Barrow v. Trans Union, LLC*, 20-3628, 2021 WL 1424681, at *5 (E.D. Pa. 2021) (Joyner, J.) (“Reading the report as a whole, we can conceive of several different, plausible meanings which may be ascribed to these remarks from the perspectives of a typical, reasonable reader and a typical, reasonable creditor.

However, speculation is not our function to perform in ruling on a Rule 12(c) motion.”). Defendants principally rely on a non-precedential Third Circuit decision, *Schweitzer v. Equifax Sols. LLC*, 441 F. App’x 896, 899 (3d Cir. 2011). Even if I were to consider that decision as persuasive authority entitled to some weight, it was also decided at summary judgment. Accordingly, the motions are denied.

/s/ Gerald Austin McHugh
United States District Judge